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TO RUEHLO/AMEMBASSY LONDON IMMEDIATE 5313
RUEHFR/AMEMBASSY PARIS IMMEDIATE 5275
RUCNDT/USMISSION USUN NEW YORK IMMEDIATE 6854
INFO RUEHGB/AMEMBASSY BAGHDAD IMMEDIATE 7144
RUEHKU/AMEMBASSY KUWAIT IMMEDIATE 6450
RUEHRN/USMISSION UN ROME IMMEDIATE 0666
RUEHGV/USMISSION GENEVA IMMEDIATE 7935

C O N F I D E N T I A L SECTION 01 OF 02 STATE 072667

SIPDIS
USUN FOR GERMAIN AND KUJAWINSKI

E.O. 12958: DECL: 07/13/2034
TAGS: [PREL](#) [UNSC](#) [IZ](#) [KU](#)
SUBJECT: GUIDANCE: IRAQ/KUWAIT RESOLUTION

REF: USUN 615

Classified By: IO A/S Esther Brimmer. Reason 1.4 (b) and (d).

11. (U) This is an action request(paras 2 and 3).

12. (C/REL UN, GB, FR) Per reftel (para 3), Washington requests USUN to share the following UN Security Council resolution (UNSCR) text with P3 members and seek their support. Once P3 agreement is reached, USUN is instructed to share the text with Staffan de Mistura, former UN Special Representative to UNAMI. De Mistura will present the arrangement to senior Kuwaiti leadership and then to Iraqi Prime Minister Maliki to seek their concurrence.

13. (C) Embassy London and Embassy Paris are requested to share on or after July 15 the following resolution text with host governments at the appropriate level and seek their support. Posts should draw from the background in para 6 below when delivering this demarche.

14. (C/REL UN, GB, FR) Begin Non-paper:

Preambular Paragraphs:

--Welcoming the Secretary-General's report as requested in paragraph 5 of Resolution 1859(2008) on facts relevant to consideration by the Council of actions necessary for Iraq to achieve international standing equal to that which it held prior to the adoption of resolutions pertaining specifically to Iraq, beginning with the adoption of resolution 661 (1990);

--Reaffirming the commitment of all Member States to the sovereignty, territorial integrity and political independence of Kuwait and Iraq;

--Welcoming in particular the annexed letter from Iraqi Prime Minister Nuri al-Maliki, in which the government of Iraq reaffirms its commitment to resolution 833 (1993) and promises to complete the technical and other implementation arrangements necessary with regard to the border between Iraq and Kuwait; welcoming also the annexed letter from (Kuwaiti Senior Official), in which the government of Kuwait affirms its willingness to engage in good faith discussions with the government of Iraq under the auspices of the United Nations Compensation Commission on a final settlement of United Nations Compensation Commission awards, cognizant of the decisions set out below;

--Recognizing and reaffirming the conclusion of the United Nations Iraq-Kuwait Boundary Demarcation Commission with respect to the right of navigation and access for both Iraq and Kuwait through the Khowr Zhobeir, the Khowr Shetana and the Khowr Abd Allah to and from all their own respective waters and territories bordering their boundary and that this

right of access implies a non-suspendible right of navigation for both States;

Operative Paragraphs:

--Underlines and reaffirms resolution 833 (1993) in its entirety;

--Requests the Secretary-General to facilitate the establishment of a Panel for Review and Mediation of Maritime Issues, in consultation with Iraq and Kuwait, with a mandate to review and, as appropriate, mediate outstanding issues arising from the maritime boundary, building upon the work done by the United Nations Iraq-Kuwait Boundary Demarcation Commission and affirmed in resolution 833 (1993);

--Requests further that the Secretary General appoint a representative to lead the Panel;

--Requests further that the Secretary General report to the Council regularly on progress made and, at any time that the Secretary General determines is appropriate, transmit recommendations to the Council to further the resolution of issues before the Panel;

--Reaffirms the obligation placed upon the Government of Iraq to deposit a percentage of the proceeds of all export sales

STATE 00072667 002 OF 002

of petroleum, petroleum products and natural gas from Iraq into the Compensation Fund, and the authorities of the Governing Council of the United Nations Compensation Commission as reaffirmed in paragraph 21 of resolution 1483 (2003);

--Decides to decrease the percentage of proceeds referred to in paragraph 21 of resolution 1483(2003) from 5 percent to 2.5 percent, effective immediately;

--Calls upon the Government of Iraq and the Government of Kuwait to engage immediately in good faith settlement negotiations under the auspices of the United Nations Compensation Commission with regard to settlement of the United Nations Compensation Commission awards that will remain outstanding upon full payment of the environmental remediation awards issued by the United Nations Compensation Commission;

--Calls upon the Government of Iraq to establish an accounting and payment procedure and mechanism to ensure the continuation of deposits of the proceeds referred to in paragraph 21 of resolution 1483 (2003) to the Compensation Fund, to be audited by independent public accountants reporting to the International Advisory and Monitoring Board, or successor arrangements for the International Advisory and Monitoring Board, including the Committee of Financial Experts;

End Non-paper.

15. (C/REL UN, GB, FR) The third preambular paragraph above references an Iraqi letter that would detail the technical and other implementation arrangements that Iraq would undertake with regard to the border between Iraq and Kuwait. While de Mistura will need to negotiate the specifics of this list with the two governments, we believe that it could include:

- removal of any obstacles or buildings along the boundary,
- maintenance of the boundary pillars,
- resettlement of the Iraqi farmers living adjacent to the border on the Kuwaiti side, and
- construction of a road parallel to the boundary pillars.

6.(SBU) Background: Before departing Iraq on June 15, former UNAMI SRSG Staffan de Mistura engaged in shuttle diplomacy

between Iraq and Kuwait to broker a deal in which the Government of Iraq (GOI) reaffirms its acceptance of the inviolability of the border as demarcated in UNSCR 833; Kuwait agrees to a 2.5% decrease in the percentage of oil export revenues that Iraq pays to fund UN Compensation Commission awards; and a UN panel is established to deal with outstanding Iraq/Kuwait maritime issues. On June 23, de Mistura met with P3 representatives in New York to discuss his plan and seek consensus around such a deal (incorporated into a Security Council resolution). Over the following week, and before officially commencing his duties as Deputy Administrator of the UN World Food Program on July 1, de Mistura travelled to P3 capitals to seek further support for his deal. De Mistura noted that once P3 agreement is reached, he will present the arrangement to senior Kuwaiti leadership and then with Iraqi Prime Minister Maliki to seek their concurrence. His goal is to publicly announce a deal by the end of July or early August, in the context of a Security Council meeting to discuss the Secretary General's report, pursuant to para 5 of UNSCR 1859 regarding the facts relevant to the Council's consideration of actions necessary for Iraq to achieve the international standing it held prior to adoption of resolution 661 and subsequent UNSCRs.

17. (U) Please report reaction to these suggestions to POC William Haldeman (IO/UNP), HaldemanWE@state.gov.
CLINTON